

## REMARKS

Applicants, by the amendments presented above, have made a concerted effort to present claims which more clearly define over the prior art of record, and thus to place this case in condition for allowance. Currently, claims 1-4 and 6-14 are pending. Claim 5 was canceled  
5 without prejudice and the limitations incorporated into claim 1.

*37 C.F.R. §1.105 Requirement for Information*

In the first section of the Office Action, the Examiner makes a request under 37 C.F.R. §1.105 for information. The Examiner lists a large number of patents and patent applications and  
10 indicated that these are "possible related co-pending applications and patents".

Applicants have reviewed the list provided by the Examiner, as well as other patents/patent application owned by the assignee herein and has made a good faith effort to identify any possible conflicting patents/applications. Applicants submit that there are no "same type" double patenting issues under 35 U.S.C. §101.

15 Applicants draw the Examiner's attention to the following patents/patent applications which may present double patenting issues: United States Patent No. 6,832,610 and United States patent application Serial No. 10/487,518. Applicants have concurrently filed Terminal Disclaimers for same. In addition, Applicants advise the Examiner of United States patent application Serial Nos. 10/268,869 (now abandoned, a copy of the express abandonment of same  
20 which was filed today is enclosed), 10/267,279 (abandoned) and 10/297,951 (abandoned). No Terminal Disclaimers have been filed for these applications as they have been abandoned by the assignee.

Applicants have also concurrently filed Terminal Disclaimers for United States Patent Nos. 6,951,218 (co-pending Serial No. 10/395,446 discussed by the Examiner) and 6,789,541 in order to expedite prosecution. Applicants do not agree with the Examiner that the current application is an obvious variation over United States Patent No. 6,951,218. The claims in the '218 patent relate to a patient interface with a cushion that has a flexible sealing lip and resilient sealing pad, and therefore, do not overlap with the current application and do not present a double patenting issue. Additionally, Applicants disagree that the claims in United States Patent No. 6,789,541 overlap with those of the current application. The claims of the '541 patent relate to a patient interface with a sliding connection between the headgear and the patient interface.

Applicants note that the Examiner indicated that there is a two month extension of time for responding to this requirement for information, but the cover sheet of the Office Action indicated that there is a three month period for response. To ensure that this is timely submitted, Applicants have concurrently submitted a One-Month Extension of time to extend the date for response to the Requirement for Information to June 29, 2006.

***Claim Rejections - 35 U.S.C. §112, first paragraph***

Claims 1-7 were rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Applicants have amended claim 1 to remove the limitation of "thereby allowing a substantially unrestricted view for a user's eyes".

Applicants submit that the remaining portion of the limitation, "a width of the bridge member at a region where the forehead rest is mounted is substantially no greater than any other region of the bridge member", are based on the disclosure on page 5, lines 31-32, which specifies the

requirements to have the forehead rest 500 as narrow as possible to minimize the profile and frontal appearance of the mask 501. It is submitted that a person of ordinary skill in the art looking at Figures 7 and 8 would clearly discern that the bridge member 532 is narrow with respect to the rest of the mask, and furthermore, it is clearly evident that the bridge member 532

5 has parallel sides. Similarly, in consideration of the front view of Figure 8, the bridge member and forehead rest is small and streamlined with respect to each other. This is pointed out on page 6, lines 9-12 as being one particular advantage of the present invention over prior art systems.

Therefore, Applicants submit that the scope of the claims have been limited to specific detail of the bridge member and forehead rest disclosed in the application as originally filed, and

10 that claims 1-7 are merely restrictive, rather than negative limitations. Reconsideration and withdrawal of the rejection is requested.

Claims 8-14 were rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Claim 8 has been amended to specify "the attachment points are positioned on the bridge member and extend outward and away from the

15 region where the forehead rest is mounted". Claim 9 has been amended to specify "said attachment points lying in an approximately mid sagittal plane and positioned on the bridge member extending outward and away from a region where the forehead rest is mounted".

Applicants submit that claim 8 and 9 now conform to the disclosure at page 6, lines 6-7. The remaining claims are dependent on claim 9. Reconsideration and withdrawal of the rejection is

20 requested.

*Claim Rejections - 35 U.S.C. §103*

Claims 1-14 were rejected under 35 U.S.C. §103 as allegedly being anticipated by United States Patent No. 6,532,961 to Kwok. Reconsideration and withdrawal of this rejection is requested.

5           Claim 5 has been incorporated into claim 1 (and claim 5 has been subsequently canceled). Amended independent claim 1 specifies "said bridge member including attachment points for headgear, said attachment points lying in an approximately mid sagittal plane". Likewise, independent claim 9 specifies "attachment points for headgear, said attachment points lying in an approximately mid sagittal plane".

10           Kwok does not disclose or suggest the placement of the attachment means lying in approximately the mid sagittal plane. Kwok discloses the placement of the attachment means at the outermost ends of the forehead rest 25 which are displaced a distance from the mid sagittal plane, and as such, spreading the pressure applied to the forehead rest over a larger surface area.

15           Similarly, in relation to claim 8, Kwok does not disclose the placement of the attachment means on the bridge member extending away from the region where the forehead rest is mounted. As discussed above, the attachment means are attached to the distal ends of the forehead rest, and as such, displaced from the bridge member.

Therefore, Applicants submit that the claims are allowable over Kwok. Reconsideration and allowance is requested.

In view of the above Amendments and Remarks, Applicant respectfully submits that the claims of the application are allowable over the rejections of the Examiner. Should the Examiner have any questions regarding this Amendment, the Examiner is invited to contact one of the undersigned attorneys at (312) 704-1890.

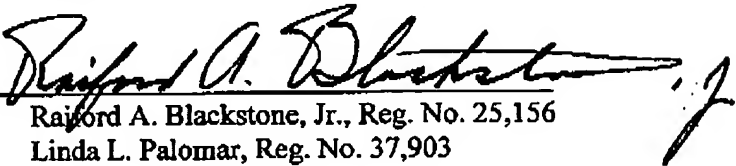
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Respectfully submitted,

Dated:

*June 29, 2006*

By:

  
Raymond A. Blackstone, Jr., Reg. No. 25,156  
Linda L. Palomar, Reg. No. 37,903

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Trexler, Bushnell, Giangiori,  
Blackstone & Marr, Ltd.  
105 W. Adams Street, 36th Floor  
Chicago, Illinois 60603

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985970

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Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Application Number	10/268,869
Filing Date	October 10, 2002
First Named Inventor	Lewis Gradon
Art Unit	3743
Examiner Name	Mital Patel
Attorney Docket Number	1171/40588

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Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)☒ attorney or agent of record. Attorney or agent registration number is 25,156☐ attorney or agent acting under 37 CFR 1.34, who is authorized under 37 CFR 1.138(b) because the application is expressly abandoned in favor of a continuing application (box 2 above must be checked). Attorney or agent registration number is \_\_\_\_\_


Raiford A. Blackstone, Jr.

Typed or printed name



312-704-1890

Telephone Number

Note: Signature of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

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